

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS

TEXARKANA DIVISION

DANTONIO NEAL	§	
VS.	§	CIVIL ACTION NO. 5:09-CV-2
BUREAU OF PRISONS, ET AL.	§	

MEMORANDUM ORDER OVERRULING PETITIONER'S OBJECTIONS AND ADOPTING  
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Petitioner Dantonio Neal, a prisoner confined at the Federal Correctional Institution in Texarkana, Texas, brought this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241.

The court ordered that this matter be referred to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge. The magistrate judge recommends dismissing the petition without prejudice to allow petitioner to exhaust administrative remedies.

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record, pleadings, and all available evidence. Petitioner filed objections to the magistrate judge's Report and Recommendation.

The court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). After careful consideration, the court concludes the objections are without merit. Petitioner contends that exhaustion would be futile. This argument lacks merit because the Bureau of Prisons does consider individual requests for RRC placements in excess of six months. *Ciocchetti v. Wiley*, 2009 WL 4918253 (10th Cir. Dec. 22, 2009) (unpublished); *see also Rivkin v. Tamez*, 2009 WL 3489428 (5th Cir. Oct. 29, 2009) (unpublished)

(affirming the dismissal of a claim concerning RRC placement for failure to exhaust administrative remedies).

**ORDER**

Accordingly, petitioner's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the magistrate judge's recommendation.

**SIGNED this 8th day of February, 2010.**

A handwritten signature in black ink, appearing to read "David Folsom", is written over a horizontal line.

DAVID FOLSOM  
UNITED STATES DISTRICT JUDGE